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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.R No.117 of 1999
Date of decision:4.12.2006

The Commissioner of Income-Tax, Jalandhar ...Petitioner

Versus

M/S Bansal Sons,Ludhiana

...Respondent

CORAM: HON'BLE MR.JUSTICE ADARSH KUMAR GOEL
HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Dr.N.L.Sharda, Advocate for the revenue.

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JUDGMENT

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh arising out of its order dated 22.8.1995 passed in I.T.A.No.734/Chandi/1990, in respect of the assessment year 1988-89.

> "Whether on the facts and in the circumstances of the case, the ITAT was right in law in law in deleting the addition of Rs.2,72,518/- on account of difference in the stock hypothecated to the bank and those found in the books of account ?"

The Assessing Officer has made addition to the income declared by the assessee under Section 69 of the Income Tax Act, 1961 (for short "the Act") on the ground that there was wide variation between the stock as per the bank statements and the stock as per the books.

The Tribunal accepted the explanation of the assessee that it was not a clear case of pledge of stock with the bank but that of hypothecation and the bank had not verified the statement. The statement furnished to the bank was on estimated basis. There was no other circumstances to justify addition. The gross profit rate also

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compares with the gross profit rate of the earlier years. Position of stock arrived at in the middle of the year was not enough to justify the addition. Reliance was placed on a judgment of this Court in the case of **Bhalla Brothers (1981) 10 TLR 45**.

The matter has been considered by this Court on earlier occasion and it has been held that mere discrepancy in the bank statement and the accounts of the assessee was not enough to justify addition to the income if the position could be satisfactorily explained. In the present case, the Appellate Authority as well as the Tribunal have recorded a finding that the assessee have duly explained the position and there was no discrepancy calling to the addition in the income of the assessee. Reference may be made to order of this Court in **The Commissioner of Income-Tax, Panchkula Vs. M/S Chauhan Paper Pvt. Limited, Chhoti Line, Yamuna Nagar ITA No.358 of 2006 decided on 12.10.2006**.

Learned counsel for the revenue has not been able to show that the concurrent finding recorded by the CIT(A) and the Tribunal that the assessee had duly explained the difference in the statement furnished to the bank and the books of account, was in manner vitiated .

Accordingly, the question referred is answered against the Revenue and in favour of the assessee.

The reference is disposed of.

(Adarsh Kumar Goel)
Judge

December 04,2006 **(Rajesh Bindal)**
Pka **Judge**